

MAR 01 2005

PAGE 1/9 * RCVD AT 3/1/2005 1:11:41 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/3 * DNIS:8729306 * CSID:9194199354 * DURATION (mm-ss):03-50

abstract must be submitted without any markings. However, this is completely different from the instructions sent out by the USPTO regarding revised amendment practice, effective date of July 30, 2003, a copy of which is included in Appendix A. As stated in the amended 37 CFR 1.121 the only time an abstract is submitted without marking is when the abstract is **NEW**. This is not the case because as clearly shown on page 2 of the October 22, 2004 Office Action, the Examiner requested that the abstract be rewritten to remove reference to methods of use. It is intuitive that if the Examiner is asking for an amendment of an abstract then clearly there is one already submitted in the application and the currently amended one is a replacement and not a new abstract. According to the rules set forth in 37 CFR 1.121, if the abstract is a replacement then amendment

"must be made by presenting a replacement paragraph or section or abstract marked up to show changes made relative to the immediate prior version. An accompanying clean version is not required and should not be presented. Newly added paragraphs or section, including a new abstract (instead of a replacement abstract), must not be underlined."

Thus, it is very evident that the applicants had correctly amended the abstract. Applicants have included the abstract again in the corrected form as required by the rules set forth in 37 CFR 1.121. Meaning that the new text is underlined and the deleted text is marked for deletion.

If applicants had amended the replacement abstract according to the suggestion of the LIE, then essentially, there would be two abstracts because the previous abstract would show no signs for deletion and would still be part of the application. Examiner Sole requested that the previous abstract be rewritten in a form to introduce the device and eliminate text relating to methods. Applicants did that correctly in the previous submission. Further, applicants are requesting that the previous Notice of Non-Compliance be withdrawn.